

1 THE HONORABLE JOHN C. COUGHENOUR
2
3
4
5
6

7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 RONALD L. BREKKE,

11 v.
12 Petitioner,

CASE NO. C14-1354-JCC

ORDER

13 UNITED STATES OF AMERICA,
14

Respondent.

15 This matter comes before the Court on Petitioner's motion for relief from a final
16 judgment (Dkt. No. 33) and motion for an order to show cause (Dkt. No. 34). It appears that
17 Petitioner's motion for relief from a final judgment (Dkt. No. 33) seeks to offer the following
18 contract to the Government—Petitioner will pay the Government \$300,000,000, payable May
19 2049, if it releases Petitioner from his incarceration. (*See* Dkt. No. 33.) Included in Petitioner's
20 motion is a contract clause that purports to make the Government's acceptance of the contract
21 automatic if it does not respond within 10 days. (*See id.*) Petitioner's motion for an order to show
22 cause (Dkt. No. 34), filed 42 days after his first motion, asks the Court to issue an order to show
23 cause why Petitioner is still in custody, given that the Government did not respond to his offer
24 within 10 days. (*See* Dkt. No. 34.)

25 Petitioner's first motion is a Federal Rule of Civil Procedure 60(b)(5) motion, premised
26 on the theory that Petitioner's judgment has been satisfied by his contract offer (and its

1 impending acceptance). (See Dkt. No. 33.) Regardless of whether Petitioner's motion is an
2 improper Federal Rule of Civil Procedure 60(b) motion,¹ Petitioner cannot use a contract *offer* to
3 argue that a judgment has been satisfied. And he cannot fix this shortcoming by embedding in
4 his offer that the Government's failure to respond results in its acceptance. *See, e.g., Saluteen-*
5 *Maschersky v. Countrywide Funding Corp.*, 22 P.3d 804, 808 (Wash. Ct. App. 2001). Finally,
6 although this Rule 60(b) motion was filed in a civil case, it is really an attempt by Petitioner to
7 overturn his criminal conviction. Rule 60(b) motions provide relief from only civil judgments,
8 not criminal convictions and sentences. *See, e.g., United States v. Tate*, 523 F. Supp. 2d 165, 168
9 (D. Conn. 2007).

10 Therefore, Petitioner's motion for relief from a final judgment (Dkt. No. 33) and motion
11 for an order to show cause (Dkt. No. 34) are DENIED.

12 DATED this 9th day of July 2019.

13
14
15
16
17
18
19
20
21
22



23 John C. Coughenour
24 UNITED STATES DISTRICT JUDGE
25
26

1 Petitioner's underlying case is a habeas petition filed in September 2014. (Dkt. No. 1.) A
2 defendant is generally limited to one federal habeas petition and is generally "bar[red] from
3 filing a second or successive petition without authorization from the appropriate court of
4 appeals." *Ybarra v. Filson*, 869 F.3d 1016, 1022 (9th Cir. 2017). A defendant cannot evade this
5 bar by simply calling his petition a Federal Rule of Civil Procedure 60(b) motion. *Id.* A Rule
6 60(b) motion that raises an entirely new claim, or attacks the Court's resolution of a claim on the
7 merits, is an improper Rule 60(b) motion. *Id.*